

North Little Rock Board of Adjustment

Minutes February 26, 2009

The regular meeting of the North Little Rock Board of Adjustment was called to order by Chairman Carl Jackson at 1:35 P.M. in the Planning Office (Conference Room B).

Members Present

Debra Roberts
Tom Brown
Jimmy Phillips
Andy Hight
Carl Jackson, Chairman

Members Absent

None

Staff Present

Robert Voyles, Planning Director
Wade Dunlap, City Planner
B. J. Jones, Secretary

Others Present

Don Wood, NLR Code Enforcement
Suzanna Abston, 1023 Parker St, NLR, AR
Eric Love, 1315 Maple, NLR, AR
Rosevelt Horton, 400 E. 12th St, NLR, AR
Odessa Horton, 400 E. 12th St, NLR, AR
Rosie Lee Brown, 324 E. 12th St, NLR, AR
Ella Chism, 314 E. 13th St, NLR, AR
Ben Fendren, 319 W. 12th St, NLR, AR
Levinia Chism, 314 E. 13th St, NLR, AR
Gloria Chism, 314 E. 13th St, NLR, AR

Approval of Minutes

Ms. Roberts made the motion to approve the minutes of the January 29, 2009 meeting as submitted.

Mr. Phillips seconded the motion. There was no dissent.

Old Business

1. **BOA CASE #1409** – Mrs. Suzanna Abston – 1023 Parker Street – North 50 feet of lots 1-3, block 2, Giles Addition – To allow a front yard setback variance of 13 feet from the required 25 feet which would be a setback of 12 feet from the property line. REQUESTING AN EXTENSION ON THE APPROVAL TIME PERIOD TO OBTAIN A PERMIT.

Chairman Jackson stated the case number, the applicant's name and requested that the applicant come before the Board. He also asked for anyone else wanting to speak in this matter.

Wade Dunlap explained that Mrs. Abston's approval by this Board had included a condition requiring a re-plat of the adjoining property to allow for an adequate side yard setback. The Abstons have found it necessary to focus on other projects at additional projects in the area, due to violations that had been tagged by Code Enforcement. Due to these unforeseen circumstances, the Abstons are asking for additional time to meet the requirements of this Board's conditions.

Mrs. Abston explained that another property had been tagged by Code Enforcement, making it necessary to rehabilitate that property first.

Chairman Jackson asked what properties had been repaired.

Mrs. Abston listed three properties on West 9th St. that had been rehabilitated.

Mr. Dunlap asked if she was requesting a ninety day extension.

Mrs. Abston asked if more time would be possible, as she is concerned the requirements for the re-plat alone could take ninety days.

Ms. Roberts formed a motion to grant a one hundred and twenty day extension to the applicant which would include all previous conditions.

Mr. Hight seconded the motion and it passed with a unanimous vote.

New Business

1. **BOA CASE # 1422** – Mr. Eric Love – 324 E. 13th Street – Lot 1 Block 1 Central Addition – To allow a rear yard setback variance of 15 ft. to allow for a room addition. (Corner of E. 13th Street and E. 12th Street intersection, just west of N. Cypress Street and I-30.)

Chairman Jackson stated the case number, the applicant's name and requested that the applicant come before the Board. He asked for any others interested in speaking in this matter and all were sworn in.

Mr. Dunlap noted that he was in possession of a letter from several of the neighbors, with their signatures, that he would read for the record after Mr. Love stated his hardship. He also displayed photographs to show how the building is situated on the lot and where the proposed room addition would be situated on the back side of the property.

Mr. Brown asked if the property is commercial.

Mr. Dunlap replied that the zoning is I-2, which is light industrial, but allows a restaurant.

Mr. Hight asked for verification of the location. He asked if it was located near the Boys Club.

Chairman Jackson asked if all the surrounding property is zoned commercial.

Mr. Dunlap pointed out which properties are residential. He called attention to the proposed location of the room addition, emphasizing how the existing building is closer to the easement than the room addition would be.

Chairman Jackson asked the applicant to state his hardship.

Mr. Love noted that the building is a nice location for a restaurant and that none exist in the area. He explained that he would need additional storage space for necessary freezers, as there is not enough space in the kitchen to accommodate such.

Chairman Jackson asked if he plans on having an outside walk in cooler.

Mr. Love replied in the negative.

Chairman Jackson asked what type of structure Mr. Love is proposing.

Mr. Love responded that the room addition would be a wooden structure.

Mr. Hight asked if the addition would conform to the current building.

Mr. Love explained that it would be different, made of only painted plywood.

Mr. Dunlap explained that if this Board approved Mr. Love's request, he would still be required to submit plans to the commercial plans examiner for a standard plans review.

Mr. Brown asked if that would require him to upgrade the entire building.

Mr. Phillips asked what the hours of operation would be for the restaurant.

Mr. Dunlap asked the plans examiner, Jim Briley, to address the Board.

Mr. Briley confirmed that plywood was an acceptable exterior for the room addition and that the building already meets code requirements, as it underwent a renovation approximately a year ago.

Mr. Dunlap read the letter from adjoining property owners asking the Board to deny Mr. Love's request. Specifically they feared it would impact the neighborhood negatively, creating excess traffic and noise.

Chairman Jackson then opened the floor for discussion from those neighbors in attendance.

Odessa Horton of 400 E. 12th St spoke first and told of a specific incident about a month ago with loud music until approximately 2am. She voiced concerns that the restaurant would become a club and as such, the traffic potential might be extremely negative.

Rosalee Brown of 324 E. 12th St. added that she had been in the neighborhood for seventy-one years. She added that it had always been relatively quiet and she would like for it to remain that way.

Ella Mae Chism of 314 W. 14th St. added that the previous restaurant had been a quiet place and had operated just fine within the existing accommodations.

Ms. Horton asked Mr. Love why there had been such loud music.

Mr. Love apologized and explained that the one incident had been his birthday. He explained that he had apologized previously and promised it would not happen again.

Ms. Horton asked why Mr. Love thought it was necessary to expand.

Mr. Love explained that the previous owner had placed his freezers in the area at the door, but he wanted to make that area a "to go" service area, necessitating additional space for the freezers.

Mr. Voyles added that Mr. Love anticipated a larger clientele than the previous owner and wanted to reconfigure the space plan to allow for such.

Chairman Jackson noted that two additional neighbors had come and he paused to swear them in.

Levinia Chism of 314 E. 13th St. echoed previous concerns that the expansion would negatively impact the neighborhood.

Gloria Chism of 314 E. 13th St. questioned plans to expand the restaurant and voiced concerns about adequate parking.

Mr. Brown noted that there is no one in attendance to speak in favor of Mr. Love's request.

Mr. Phillips asked the neighbors if anyone had complained to the police the night of the loud music.

The group of neighbors replied in the negative.

Mr. Hight asked how many loud music instances had occurred.

The group agreed there had only been the one occasion.

Mr. Phillips asked Mr. Love to confirm that his hours of operation would be from 10am until 9pm.

Mr. Love confirmed.

Mr. Hight asked if alcohol would be served.

Mr. Love replied in the negative.

Ms. Roberts asked for staff recommendations.

Mr. Dunlap stated that the staff recommended approval based on the needs to expand for storage. He added that the proposed addition would not encroach on the right of way any more than the existing building.

Mr. Voyles added that the odd shaped lot also limited Mr. Love's options.

Mr. Brown voiced concern that so many were in attendance to speak in opposition to the proposal. He suggested that the numbers in attendance exceeded any before seen.

Chairman Jackson asked how long the property had been zoned industrial.

Mr. Voyles responded that it had been industrial since the 1960's and could be rezoned commercial.

Mr. Hight asked if Mr. Love planned to add more tables if the expansion was approved.

Mr. Love replied in the negative and added that he only needed additional storage.

Ms. Roberts noted that the only real objection is one noise incident. She agreed with Mr. Brown that the neighbor's opposition should be considered, but she felt this is different, considering there is no alcohol and the property has already been functioning as a restaurant.

Chairman Jackson asked if there was adequate parking.

Mr. Love responded that he did not intend to change the parking accommodations.

Mr. Voyles confirmed that parking requirements have been met, even considering the room addition.

Chairman Jackson asked for confirmation that the business is allowed in the area.

Mr. Voyles confirmed that the business is allowed by right.

Mr. Phillips asked if the business would continue with or without this Board's approval.

Mr. Love replied in the affirmative.

Ms. Roberts formed a motion to grant the applicants request with added conditions that the hours of operation would be from 10am until 9pm.

Mr. Hight seconded the motion and it passed with three affirmative votes. Mr. Brown and Chairman Jackson each opposed the motion.

Administrative:

Mr. Dunlap wanted to follow up on Mr. Brown's inquiry regarding Discount Muffler. He noted that the business had applied for a Conditional Use permit for tire sales in a C-3 zone.

Mr. Brown asked that follow up be done regarding Tolliver's on MacArthur Dr. He voiced concern regarding all the junk cars piled up on the property. He expressed that he had been told that the Planning Commission had placed a condition for cars to be behind the building, when they had given permission to build.

Mr. Voyles questioned the Code officer in attendance.

Mr. Wood was not familiar with that area, but offered to question Officer Epperson.

Mr. Voyles updated the Board on the dumpster situation. He estimated that five hundred dumpsters are still unscreened.

PUBLIC COMMENT/ADJOURNMENT:

Ms. Roberts made the motion to adjourn at 2:25 pm and there was no dissent.

PASSED: _____ RESPECTFULLY SUBMITTED:

CARL JACKSON, CHAIRMAN

ROBERT VOYLES, DIRECTOR